

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA.
FILED
NOV 08 2006
In C'ville
JOHN F. CORCORAN, CLERK
DEPUTY CLERK

ROGER D. WALKER,

Plaintiff,

v.

JOHN E. POTTER, *United States Postmaster
General*

Defendant

CIVIL No. 3:06cv00031

ORDER and OPINION

JUDGE NORMAN K. MOON

Plaintiff filed a complaint in this Court on June 8, 2006. Plaintiff has failed to serve Defendant within the time constraints imposed by Rule 4 of the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 4(m) ("If service ... is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time").

On October 13, 2006, the Court notified Plaintiff that the 120-day deadline had passed and that Plaintiff had 15 days within which to notify the Clerk of the Court that service had been accomplished or risk dismissal. Plaintiff filed a motion to extend the time for service, but the Court denied Plaintiff's motion and required that Plaintiff comply with the 120-day notice.

Plaintiff has not complied with Rule 4(m) or with the 120-day notice. Accordingly, pursuant to Federal Rule of Civil Procedure 4(m), this case is DISMISSED WITHOUT PREJUDICE.

It is so ORDERED.

The Clerk of the Court is directed to send certified copies of this Order to all Counsel of Record. The Clerk of the Court is further instructed to STRIKE this case from the docket.

ENTERED: *Spencer Wilson*
United States District Judge
November 8, 2006
Date